

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HYNIX SEMICONDUCTOR INC., HYNIX SEMICONDUCTOR AMERICA INC., HYNIX SEMICONDUCTOR U.K. LTD., and HYNIX SEMICONDUCTOR DEUTSCHLAND GmbH.

No. C-00-20905 RMW

**ORDER REGARDING ENTRY OF  
JUDGMENT**

Plaintiffs,

V.

RAMBUS INC.,

Defendant.

The parties have submitted competing proposed forms of judgment. The parties agree on the form of judgment in all but two respects. As to the first, Hynix requests that it be permitted to accrue or deposit in escrow the ongoing royalties owed under the judgment pending resolution of any appeals from the judgment. Hynix's request is premature. Hynix may raise the issue by way of a Rule 62 motion following entry of judgment. The court also notes that Hynix's fear – that Rambus will not return any royalties paid by Hynix even if Hynix prevails on appeal – appears baseless.

*E.g., Broadcom Corp. v. Qualcomm Inc.*, 585 F. Supp. 2d 1187 (C.D. Cal. 2008) (ordering Broadcom to repay "sunset royalties" following Federal Circuit reversal on liability).

As to the second, the parties dispute the timing of any proceedings regarding the taxing of

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For the Northern District of California

1 costs. Hynix requests that any determination of costs occur after all appeals are final. Though there  
 2 is some wisdom to Hynix's approach, *see, e.g., American Infra-Red Radiant Co. v. Lambert*  
 3 *Industries, Inc.*, 41 F.R.D. 161 (D. Minn. 1966), the Civil Local Rules contemplate addressing costs  
 4 swiftly. *See Civil L.R. 54-1(a)* (imposing a 14-day deadline following entry of judgment for a  
 5 prevailing party to file its bill of costs). This ensures that the court considers the reasonableness of  
 6 costs while the case is fresh, which is important because this inquiry is difficult when made from a  
 7 "cold" record.

8 The magnitude of this case, and the alleged size of Rambus's cost bill, counsel against  
 9 submitting the bill of costs to the clerk's office in the first instance. *E.g., Syracuse Broadcasting*  
 10 *Corp. v. Newhouse*, 32 F.R.D. 29, 29 (N.D.N.Y. 1963) ("The attorneys for both sides seem satisfied  
 11 to . . . bypass the Clerk in the first instance. . . . In fact, the substantial items challenged are ones  
 12 peculiarly within the knowledge of the trial judge and would be practically an impossible burden for  
 13 the Clerk to resolve with any degree of reason and certainty."); *Deering, Milliken & Co v.*  
 14 *Temp-Resisto Corp.*, 169 F. Supp. 453, 456 (S.D.N.Y. 1959) (explaining why "[t]here is no merit in  
 15 the defendants' contention that Rule 54(d), F.R.Civ.P., requires that costs must be taxed in the first  
 16 instance by the clerk and that the Court has no power to tax them"). The difficulty of this inquiry  
 17 also counsels against the application of the Local Rules' 14-day deadline for filing the bill of costs  
 18 and 10-day deadline for filing objections. *See Civil L.R. 54-1(a); 54-2(a)*. Accordingly, Rambus  
 19 shall have 30 days from the entry of judgment to file its bill of costs with the court. Hynix shall  
 20 have 21 days to file any objections to Rambus's bill of costs, and may seek from the court any  
 21 necessary extension.



22  
 23 DATED: 3/10/2009

24  
 25 RONALD M. WHYTE  
 26 United States District Judge  
 27  
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## United States District Court

For the Northern District of California

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24 **Chambers of Judge Whyte**

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